

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 12135 of 2017(O&M)
Date of decision: 30.05.2017

Gurbachan Singh Rana and anr.

..... Petitioners

Versus

State Bank of India and anr.

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present:- Ms. Sudha, Advocate and
Mr. Sanish Girdhar, Advocate
for the petitioners.

AJAY KUMAR MITTAL, J. (ORAL)

The petitioners have approached this Court under Articles 226/227 of the Constitution of India seeking writ of Certiorari for quashing the impugned order dated 16.05.2017 passed by Debts Recovery Tribunal-III, Chandigarh vide which IA Nos. 34,35 of 2017 and MA No. 13 of 2017 in SA No. 310 of 2013 filed by petitioner No.1 has been dismissed.

2. It was not disputed by the learned counsel for the petitioners that the order impugned herein i.e. Annexure P-7 is an appealable order under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act'), before the Debts Recovery (Appellate) Tribunal.

3. Section 18 of the Act reads thus:-

“18. Appeal to Appellate Tribunal

(1) Any person aggrieved, by any order made by the Debts Recovery Tribunal under section 17, may prefer an appeal alongwith such fee, as may be prescribed to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal:

PROVIDED that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:

PROVIDED FURTHER that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

PROVIDED ALSO that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso.

(2) Save as otherwise provided in this Act, the Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder.”

4. In such a situation and keeping in view the above, as certain facts are required to be established, we refrain ourselves from entertaining the petition and relegate the petitioners to avail the aforesaid alternative remedy, in accordance with law.

5. Dismissed.

(AJAY KUMAR MITTAL)
JUDGE

May 30, 2017
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(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No